



BILLING CODE 7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1221]

Certain Electronic Stud Finders, Metal Detectors and Electrical Scanners: Notice of a Final Determination Finding No Violation of Section 337; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm in part, modify in part, and reverse in part the Administrative Law Judge's ("ALJ") final initial determination ("ID"), issued on October 7, 2021, finding no violation of section 337 in the above-referenced investigation as to three asserted patents. The Commission affirms the ID's determination that no violation of section 337 has occurred based on the importation of certain electronic stud finders, metal detectors, and electrical scanners. This investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 708-5453. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at

<https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On October 5, 2020, the Commission instituted this investigation based on a complaint filed on behalf of Zircon Corporation of Campbell, California ("Zircon"). 85 FR 62758-59 (Oct. 5, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic stud finders, metal detectors, and electrical scanners by reason of infringement of one or more claims of U.S. Patent Nos. 6,989,662 ("the '662 patent"), 7,148,703 ("the '703 patent"), 8,604,771 ("the '771 patent"), and 9,475,185 ("the '185 patent"). *Id.* at 62759. The Commission's notice of investigation named as respondents Stanley Black & Decker, Inc. of New Britain, Connecticut, and Black & Decker (U.S.), Inc. of Towson, Maryland (together, "Respondents"). *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On April 22, 2021, the ALJ issued a claim construction order based on briefs submitted by the parties. *See* Order No. 20. On June 15, 2021, the ALJ granted a motion for summary determination of no infringement concerning the '703 patent, which terminated that patent from the investigation. *See* Order No. 27, *unreviewed by Comm'n* Notice (July 15, 2021).

On October 7, 2021, the ALJ issued the subject ID, which found no violation of section 337 as to any claim of the remaining asserted patents by Respondents. Also, on

October 7, 2021, the ALJ issued his recommended determination (“RD”) on remedy and bonding. The ALJ recommended, upon a finding of violation, that the Commission issue a limited exclusion order and impose a bond in the amount of zero percent of the entered value of any covered products imported during the period of Presidential review.

On October 19, 2021, Zircon and Respondents submitted petitions for review of the ID. On October 27, 2021, Zircon and Respondents submitted responses to the petitions.

On December 6, 2021, the Commission issued notice of its determination to review the ID with respect to (1) the ID’s infringement findings for the ’662 patent; (2) the ID’s findings on the technical prong of the domestic industry requirement for the ’662 patent; (3) the ID’s obviousness findings for the ’662 patent; (4) the ID’s infringement findings for the ’771 patent; (5) the ID’s anticipation and obviousness findings for the ’771 patent; (6) the ID’s claim construction and infringement findings for the ’185 patent; (7) the ID’s anticipation and obviousness findings for the ’185 patent; and (8) the ID’s findings on the economic prong of the domestic industry requirement. In connection with its review of the ID, the Commission sought briefing from the parties on several questions germane to the issues on review and on remedy, bonding, and the public interest.

On December 23, 2021, the parties submitted briefs responding to the questions posed in the Commission’s Notice of Review and on remedy, the public interest, and bond. Thereafter, on January 7, 2022, each submitted a reply to the other’s brief on review.

Having considered the parties' submissions, the ID, and the record in this investigation, the Commission has determined that no violation of section 337 has occurred based on Respondents' importation, sale for importation, or sale after importation of certain electronic stud finders, metal detectors, and electrical scanners into the United States. The Commission has further determined to affirm, modify, reverse, and take no position on certain portions of the ID, as explained in the Commission's opinion issued concurrently herewith. This investigation is terminated.

The Commission vote for this determination took place on February 15, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR 210).

By order of the Commission.

Issued: February 15, 2022.

Lisa Barton,

Secretary to the Commission.

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